

{As Amended by House Committee of the Whole}

Session of 2020

HOUSE BILL No. 2585

By Committee on Energy, Utilities and Telecommunications

2-6

1 AN ACT concerning electric public utilities; relating to the state
2 corporation commission; exempting retail sales of electricity through
3 electric vehicle charging stations from commission jurisdiction;
4 **{relating to electric transmission lines; definitions; siting permits;}**
5 amending K.S.A. 66-104{, **66-1,177, 66-1,178, 66-1,179, 66-1,180 and**
6 **66-1,183}** and repealing the existing ~~section~~ **{sections}**.
7

8 *Be it enacted by the Legislature of the State of Kansas:*

9 Section 1. K.S.A. 66-104 is hereby amended to read as follows: 66-
10 104. (a) The term "public utility," as used in this act, shall be construed to
11 mean every corporation, company, individual, association of persons, their
12 trustees, lessees or receivers, that now or hereafter may own, control,
13 operate or manage, except for private use, any equipment, plant or
14 generating machinery, or any part thereof, for the transmission of
15 telephone messages or for the transmission of telegraph messages in or
16 through any part of the state, or the conveyance of oil and gas through
17 pipelines in or through any part of the state, except pipelines less than 15
18 miles in length and not operated in connection with or for the general
19 commercial supply of gas or oil, and all companies for the production,
20 transmission, delivery or furnishing of heat, light, water or power. No
21 cooperative, cooperative society, nonprofit or mutual corporation or
22 association which is engaged solely in furnishing telephone service to
23 subscribers from one telephone line without owning or operating its own
24 separate central office facilities, shall be subject to the jurisdiction and
25 control of the commission as provided herein, except that it shall not
26 construct or extend its facilities across or beyond the territorial boundaries
27 of any telephone company or cooperative without first obtaining approval
28 of the commission. As used herein, the term "transmission of telephone
29 messages" shall include the transmission by wire or other means of any
30 voice, data, signals or facsimile communications, including all such
31 communications now in existence or as may be developed in the future.

32 (b) The term "public utility" shall also include that portion of every
33 municipally owned or operated electric or gas utility located in an area
34 outside of and more than three miles from the corporate limits of such
35 municipality, but regulation of the rates, charges and terms and conditions
36 of service of such utility within such area shall be subject to commission

1 regulation only as provided in K.S.A. 66-104f, and amendments thereto.
2 Nothing in this act shall apply to a municipally owned or operated utility,
3 or portion thereof, located within the corporate limits of such municipality
4 or located outside of such corporate limits but within three miles thereof
5 ~~except as provided in K.S.A. 66-131a, and amendments thereto.~~

6 (c) Except as herein provided, the power and authority to control and
7 regulate all public utilities and common carriers situated and operated
8 wholly or principally within any city or principally operated for the benefit
9 of such city or its people, shall be vested exclusively in such city, subject
10 only to the right to apply for relief to the corporation commission as
11 provided in K.S.A. 66-133, and amendments thereto, and to the provisions
12 of K.S.A. 66-104e, and amendments thereto. A transit system principally
13 engaged in rendering local transportation service in and between
14 contiguous cities in this and another state by means of street railway,
15 trolley bus and motor bus lines, or any combination thereof, shall be
16 deemed to be a public utility as that term is used in this act and, as such,
17 shall be subject to the jurisdiction of the commission.

18 (d) The term "public utility" shall not include any activity of an
19 otherwise jurisdictional corporation, company, individual, association of
20 persons, their trustees, lessees or receivers as to the marketing or sale of:

21 (1) Compressed natural gas for end use as motor vehicle fuel; or

22 (2) *electricity that is purchased through a retail electric supplier in*
23 *the certified territory of such retail electric supplier, as such terms are*
24 *defined in K.S.A. 66-1,170, and amendments thereto, for the sole purpose*
25 *of the provision of electric vehicle charging service to end users.*

26 (e) At the option of an otherwise jurisdictional entity, the term "public
27 utility" shall not include any activity or facility of such entity as to the
28 generation, marketing and sale of electricity generated by an electric
29 generation facility or addition to an electric generation facility which:

30 (1) Is newly constructed and placed in service on or after January 1,
31 2001; and

32 (2) is not in the rate base of: (A) An electric public utility that is
33 subject to rate regulation by the state corporation commission; (B) any
34 cooperative, as defined by K.S.A. 17-4603, and amendments thereto, or
35 any nonstock member-owned cooperative corporation incorporated in this
36 state; or (C) a municipally owned or operated electric utility.

37 (f) Additional generating capacity achieved through efficiency gains
38 by refurbishing or replacing existing equipment at generating facilities
39 placed in service before January 1, 2001, shall not qualify under
40 subsection (e).

41 (g) For purposes of the authority to appropriate property through
42 eminent domain, the term "public utility" shall not include any activity for
43 the siting or placement of wind powered electrical generators or turbines,

1 including the towers.

2 **{Sec. 2. K.S.A. 66-1,177 is hereby amended to read as follows: 66-**
3 **1,177. As used in this act, the following terms shall have the meanings**
4 **ascribed to them herein:**

5 (a) "Electric utility" means every public utility, as defined by
6 K.S.A. 66-104, ~~which and amendments thereto,~~ that owns, controls,
7 operates or manages any equipment, plant or generating machinery
8 for the production, transmission, delivery or furnishing, of electricity
9 or electric power;

10 (b) "electric transmission lines" means any line or extension of a
11 line ~~which that~~ is at least five ~~(5)~~ miles in length and ~~which that~~ is used
12 for the bulk transfer of ~~two hundred thirty (230)~~ 230 kilovolts or more
13 of electricity;

14 (c) "urban electric transmission line" means any line or extension of
15 a line that is located within the corporate limits of a city and that is at
16 least ¼ mile in length and designed for the transfer of 69 kilovolts or more
17 of electricity; and

18 (d) "commission" means the state corporation commission.

19 **Sec. 3. K.S.A. 66-1,178 is hereby amended to read as follows: 66-**
20 **1,178. (a) ~~No~~ An electric utility ~~may begin~~ shall acquire a siting permit**
21 **from the commission prior to beginning site preparation for or**
22 **construction of an electric transmission line, ~~or exercise or an urban~~**
23 **electric transmission line or exercising the right of eminent domain to**
24 **acquire any interest in land in connection with the site preparation for**
25 **a the construction of any such line without first acquiring a siting permit**
26 **from the commission lines.**

27 (2) Whenever any electric utility desires to obtain ~~such~~ a siting
28 permit, the utility shall file an application with the commission setting
29 forth therein that the utility proposes to construct an electric
30 transmission line or an urban electric transmission line and specifying:

31 ~~(1)~~(A) The proposed location thereof;

32 ~~(2)~~(B) the names and addresses of the landowners of record
33 whose land or interest therein is proposed to be acquired in connection
34 with the construction of or is located within 660 feet of the center line
35 of the easement where ~~the~~ such line is proposed to be located; and

36 ~~(3)~~(C) such other information as may be required by the
37 commission.

38 (b) Upon the filing of an application pursuant to subsection (a),
39 the commission shall fix a time for a public hearing on such
40 application, which shall be not more than 90 days after the date the
41 application was filed, to determine the necessity for and the
42 reasonableness of the location of the proposed electric transmission
43 line or urban electric transmission line. The commission shall fix the

1 place for hearing, which shall be in one of the counties through which
2 the electric transmission line *or in the city through which the urban*
3 *electric transmission line* is proposed to traverse.

4 (c) The commission may conduct an evidentiary hearing on an
5 application filed pursuant to this section at such time and place as the
6 commission deems appropriate.

7 (d) The commission shall issue a final order on the application
8 within 120 days after the date the application was filed.

9 Sec. 4. K.S.A. 66-1,179 is hereby amended to read as follows: 66-
10 1,179. The commission shall publish notice of the time, place and
11 subject matter of the public hearing provided for by K.S.A. 66-1,178,
12 and amendments thereto, in newspapers having general circulation in
13 every county through which the electric transmission line *or in the city*
14 *through which the urban electric transmission line* is proposed to
15 traverse once each week for two consecutive weeks, the last
16 publication to be not less than five days before such hearing date. The
17 commission may order the applicant to publish such notice and submit
18 an affidavit of publication, evidencing the dates of publication and the
19 newspapers in which the notice appeared, to the commission prior to
20 the hearing. Written notice by certified mail of such hearing and a
21 copy of the application shall be served not less than 20 days prior to
22 the hearing date upon all landowners described in subsection (a)(2) of
23 K.S.A. 66-1,178, and amendments thereto, as shown by the
24 application.

25 Sec. 5. K.S.A. 66-1,180 is hereby amended to read as follows: 66-
26 1,180. All hearings conducted pursuant to this act shall be in
27 accordance with the provisions of the Kansas administrative
28 procedure act. All such hearings shall be completed within 30 days
29 after the commencement thereof, unless the electric utility requests a
30 continuance of any such hearing. All costs of any hearing pursuant to
31 this act shall be taxed against the electric utility. The commission shall
32 make its decision with respect to the necessity for and the
33 reasonableness of the location of the proposed electric transmission
34 line *or urban electric transmission line*, taking into consideration: (1)
35 The benefit to both consumers in Kansas and consumers outside the
36 state ~~and~~; (2) the economic development benefits in Kansas; and (3) the
37 local aesthetics, location, environment and population density. The
38 commission shall issue or withhold the permit applied for and may
39 condition such permit as the commission may deem just and
40 reasonable and as may, in its judgment, best protect the rights of all
41 interested parties and those of the general public.

42 Sec. 6. K.S.A. 66-1,183 is hereby amended to read as follows: 66-
43 1,183. It shall be the duty of every electric utility which constructs an

1 **electric transmission line or an urban electric transmission line to**
2 **restore the land upon which such line is constructed to its condition**
3 **which existed prior to such construction.}**

4 ~~Sec. 2. {7.}~~ K.S.A. 66-104 ~~is~~{, **66-1,177, 66-1,178, 66-1,179, 66-**
5 **1,180 and 66-1,183 are}** hereby repealed.

6 ~~Sec. 3. {8.}~~ This act shall take effect and be in force from and after its
7 publication in the statute book.